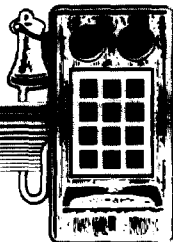


Communications Central Inc.



Public Telecommunications

DOCKET FILE COPY ORIGINAL

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JUL 1 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 28, 1996

Via Airborne Express

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street NW, Room 222
Washington, D.C. 20554

Re: In the Matter of Implementation of the Pay
Telephone Reclassification and Compensation
Provisions of the Telecommunications Act of 1996,
CC Docket No. 96-128

Notice of Proposed Rulemaking, FCC 96-254

Dear Mr. Caton:

Enclosed for filing are the original plus fourteen
(14) copies of the **Comments of Communications Central
Inc.** in the above NPRM.

By copy of this letter, two copies of the
Comments, along with an electronic version on disk, are
being submitted directly to the Common Carrier Bureau
Enforcement Division.

Should the Commission need any additional
information regarding this filing, please contact the
undersigned at 1-800-652-0774.

Sincerely,

Barry E. Selvidge, Vice President,
Regulatory Affairs and General Counsel

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION

Comments of Communications Central Inc.

CC Docket No. 96-128

Filed July 1, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

In the Matter of)
)
Implementation of the)
Pay Telephone Reclassification and)
Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128

**COMMENTS OF COMMUNICATIONS CENTRAL INC.
TO NOTICE OF PROPOSED RULEMAKING**

I. INTRODUCTION

Communications Central Inc. ("CCI") respectfully submits its comments in response to the Commission's Notice of Proposed Rulemaking, FCC 96-254, released June 6, 1996 in the above captioned docket (the "Notice").

CCI is the second largest independent payphone service provider ("PSP") in the country, owning and operating over 26,000 payphones and inmate phones in 41 states and the District of Columbia.¹ The company has been an active participant in the payphone marketplace since 1986

¹ Of the 26,000 phones, the Company currently operates approximately 5300 inmate phones in over 500 confinement facilities located in 35 states through its wholly-owned subsidiary, InVision Telecom, Inc. InVision has filed separate comments in this proceeding.

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and serves a broad range of government, corporate and independent accounts. CCI is a publicly-held corporation whose stock is traded on the Nasdaq National Market System.

CCI is a member of the American Public Communications Council, Inc. ("APCC"), the national trade association of the independent payphone industry. CCI's comments herein are limited to certain issues raised in the Notice and relate only to its public payphone operations. CCI adopts the APCC's comments in this proceeding to the extent they are consistent with CCI's comments, as well as the APCC's comments on issues not specifically addressed in the comments below.

II. SUMMARY OF ISSUES

Section 276 of the Telecommunications Act of 1996 (the "Act") directs the Commission to take all action necessary to "promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public."² Among its specific directives, the Commission is charged with establishing a "per-call compensation plan to ensure that all payphone service providers ("PSPs") are fairly compensated for each and every completed intrastate and interstate call using their payphones."³

²47 U.S.C. Section 276 (b) (1).

³47 U.S.C. Section 276 (b) (1) (a). Compensation for "emergency calls and telecommunications relay service calls for hearing disabled individuals" is specifically exempted.

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The Act's language is clear in granting the Commission jurisdiction and directing it to ensure fair compensation to PSPs for virtually every type of intrastate and interstate call originating at a payphone. Receipt of such fair compensation on a per call basis is essential to the ongoing ability of CCI and the PSP industry to deploy the highest quality public communications service to the general public in accordance with the Act's goals.

CCI maintains that the appropriate rate of fair compensation is a minimum of 40 cents for all calls using a payphone, including access code, subscriber 800 and other types of "dial-around" calls. The 40 cent rate should also apply to the initial increment of local coin calls, with the Commission exercising its jurisdiction and duties under the Act to set a nationwide local coin rate to provide uniformity for callers.

Finally, interim compensation at a minimum 40 cents per call should be granted to independent PSPs to be effective as of the release date of the Notice. This compensation should continue until final Commission rules are implemented.

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III. DISCUSSION

**A. Fair Compensation For Each and Every
Completed Call Originated At Payphones**

In its Notice, the Commission tentatively concludes that its mandate under Section 276 (b) (1) (A) is to “ensure that PSPs are ‘fairly compensated’ for ‘each and every completed intrastate and interstate call’ regardless of whether the PSP currently receives compensation for the particular call originated by its payphone.”⁴ CCI strongly supports this conclusion as being crucial to its continued ability to serve the public interest by “promoting the widespread deployment of payphone services to the general public” in accordance with the Act’s goals.⁵ We further support the Commission’s tentative conclusion that the compensation to be prescribed in this rulemaking should extend to all calls, whether intrastate or interstate in destination.⁶ This conclusion is clearly supported by congressional intent and the plain language of the statute that “each and every” call generated from a payphone, other than those calls specifically excluded by the legislation, must be fairly compensated.⁷

⁴Notice at 10, para. 16.

⁵47 U.S.C. 276 (b) (1).

⁶Notice at 11, para. 17.

⁷The Conference Committee report on the House Amendment to the Act indicates that in
(continued...)

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The critical need for fair compensation for every call as mandated in the Act is further supported by CCI's existing costs of operation for its payphones as stated in Attachment A. This data reflects a continuing loss for CCI's payphone operations.

1. Coinless Calls

a. "0+" Calls

In the Notice, the Commission tentatively concludes that it should use its mandate under Section 276 (b) (1) (A) "to prescribe compensation only when payphone providers are not already 'fairly compensated'" and seeks comment on this conclusion. While PSPs currently receive compensation, pursuant to individual contracts, from the payphone's presubscribed IXC for "0+" calls, this amount alone cannot be viewed as "fair compensation" for "0+" calls under the Act's requirements.

The compensation or "commission payments" received by PSPs from IXCs are for the value of the IXC receiving call traffic from the PSPs, for which the IXC retains the majority of revenue. Such commission payments do not address the need for PSPs to be fairly compensated

⁷(...continued)

crafting implementing rules, the Commission is not bound to adhere to existing mechanisms or procedures established for general regulatory purposes in other provisions of the Communications Act. Thus, the legislative intent confirms that the Commission has considerable discretion in meeting the Act's key mandate of ensuring "fair compensation" for all intrastate and interstate calls.

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for each use of the payphone -- an element that is separate and distinct from any IXC revenue received for directing calls to its networks.

b. Access Code Calls and Subscriber 800 Calls

CCI has continued to experience tremendous growth in the number of access code calls made from its payphones. Access code calls connect a caller to an operator service platform other than the PSP's presubscribed operator service provider for the purpose of completing a call. For example, the caller dials an access code such as "10ATT" to reach that carrier's network. Current compensation levels for access code calls do not provide the "fair compensation" required under the Act.

In addition, in recent years there has been an explosion in subscriber 800 calls at payphones, for which no compensation has ever been received. For example, a caller dials a subscriber 800 number, such as 1-800-FLOWERS, to reach the subscriber who is the party receiving the call. Moreover, with the introduction of 800 number portability, the popularity of "personal 800 numbers" and the development of "888" calling, the number of uncompensated subscriber 800 calls is continuing to grow at an unparalleled rate.

Attachment B details the current levels of both access code and subscriber 800 calling from CCI's payphone base, and Attachment C reflects dial-around's negative financial impact on CCI's long distance revenues during the past three years. This impact has directly affected the

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company's ability to maintain existing payphones and place additional equipment at new locations.

c. Other Toll-Free Number, Debit Card and International Calls

Consistent with the above, CCI supports the Commission's tentative conclusion that all other toll-free number calls, debit card calls and international calls should also be fairly compensated.⁸ The growth of these types of uncompensated dial-around calls has only served to increase the intense revenue pressure on CCI and other PSPs. As the Commission noted, "the costs of originating these calls are similar to the costs of originating 'each and every completed intrastate and interstate call.'" Applying the Act's "fair compensation" mandate to these types of calls is in concert with the plain meaning of the statute.

2. Local Coin Calls

In its Notice, the Commission posed three options for applying the Act's requirement of ensuring fair compensation for each interstate and intrastate call to local coin calls. The options were as follows: 1) setting a nationwide coin rate for all calls; 2) prescribing specific national

⁸Notice at 11, para. 17.

⁹Notice at 11, paras. 17-18.

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guidelines for states to use in establishing the local rate; or 3) allowing states to continue to set the local coin rate according to factors within their discretion.¹⁰

The first option, setting a nationwide local coin rate for all calls originated by payphones, is in the public interest and is most consistent with the Act's mandates. There are numerous public interest benefits in a nationwide local coin rate. For example, a uniform local coin rate would: 1) provide a simple rate structure for callers; 2) help ensure that callers have the correct coins necessary to make a local call; and 3) ensure predictability for transient callers who place calls from payphones in remote areas where change is not easily obtained. In addition, a uniform local coin rate set at a fair compensatory level would enable the placement of additional payphones for public use.

Varying local coin rates are not in the public interest because they result in confusion and uncertainty. Within the same state, the cost of a local call can vary based on the rate of the local exchange company serving the area.¹¹

Moreover, the majority of existing local coin rates are inadequate to ensure fair compensation.¹² In most states, the current local coin rate has not increased since payphone

¹⁰Notice at 12-13, para. 21-22.

¹¹For example, certain independent LEC territories in Georgia and South Carolina mandate 10 cent local call charges, while other LECs apply 25 cent levels.

¹²Attachment A addresses CCI's cost of payphone operation and further reflects the need for uniform compensatory local call rates.

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competition began over a decade ago. In particular, the local coin rate remains at \$.10 for a call of unlimited duration in certain areas.¹³

Local coin rate variations also substantially affect the available revenue generated from a payphone and often are key determinants in payphone placement. A uniform national local coin rate set in conformance with the Commission's fair compensation mandate would provide simplicity for callers and would promote the greater availability of payphones for public use.

B. Form and Amount of Compensation

1. Coinless Calls

The appropriate form of compensation for coinless calls is in the nature of an "equipment charge" for the use of the payphone. This same fee and mechanism should be applied to all coinless calls, including access code, subscriber 800 and 800-type calls ("888"), debit card, and operator assisted as described above.

CCI believes that the appropriate amount of compensation for all coinless calls is a minimum of 40 cents per call. The per-call compensation amount should be uniform and not vary based on the type of call.

2. Local Coin Calls

¹³E.g., Arkansas and certain LEC territories in Georgia and Ohio.

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CCI believes that the appropriate rate for local coin calls should be a uniform national charge of 40 cents per call applied for the initial increment of the call. To help ensure that the Commission meets its continuing mandate under the Act to prescribe "fair compensation" for all calls and to avoid the need to revisit this rate in the future, the local coin call rate should be adjusted by the Consumer Price Index ("CPI"). This would allow such rate changes to automatically occur at the CPI level, rounded up to the nearest nickel.

C. Interim Compensation for Coinless Calls

The Notice also seeks comment on whether the Commission should prescribe "interim compensation" for coinless calls and, if so, under what terms and conditions.¹⁴ CCI asserts that PSPs should receive interim compensation to be paid until the implementation of final rules in this proceeding. Our company's experience confirms industry trends that show the amount of dial-around calls originating from payphones has substantially increased since the Commission first considered the need for compensation in 1991.¹⁵ The increase is particularly notable in the number of subscriber 800 and debit card calls, for which no compensation is presently received.¹⁶ Given the time frame since the level of dial-around compensation has been addressed and the

¹⁴Notice at 21-22, para. 39-40.

¹⁵See CC Docket No. 91-35. CCI-specific data on current dial-around calling patterns is detailed on Attachment B.

¹⁶See Attachment B.

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significant increase in dial-around calling from payphones during this period, such interim compensation for independent PSPs is well justified.

CCI believes the appropriate interim amount should be based on a minimum of 40 cents per call.¹⁷ The interim mechanism should be a flat rate payment system similar to the interim methodology used for interstate access code calls in CC Docket No. 91-35. Such a mechanism can be easily adopted and its immediate implementation is reasonable.

Receipt of interim compensation for coinless calls is crucial for independent PSPs due to the explosive growth of dial-around calling and the resulting negative financial impact. The Commission should make such interim compensation effective as of the release date of the Notice.

IV. CONCLUSION

In order to promote a robust competitive environment in payphone services, each type of call from a payphone must generate fair compensation. The Commission's obligations under the Act are clear: by mandating per-call compensation in accordance with cost causation principles which the Commission has historically supported, fair compensation will be provided for each

¹⁷It should be noted that the Commission previously adopted a surrogate per call amount of 40 cents in developing the interim per-phone compensation methodology for PSP dial-around compensation. See CC Docket 91-35.

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and every call generated at payphones, including local coin calls. Such payments must fairly compensate CCI for providing the gateway to the public switched telephone for end users and enable the company to recover the expense of operating and maintaining its payphone equipment for public use.

Therefore, CCI respectfully requests that the Commission take such action in a manner consistent with the comments and specific recommendations made herein. The adoption of CCI's proposals would serve the public interest by providing fair compensation for PSPs, fostering competition, and promoting the widespread deployment of payphone services to the benefit of the general public, all in accordance with the Act's goals.

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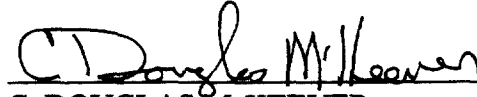
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RESPECTFULLY SUBMITTED,

COMMUNICATIONS CENTRAL INC.

BY:

A handwritten signature in black ink, appearing to read "C. Douglas McKeever", is written over a horizontal line.

C. DOUGLAS McKEEVER

Vice President - Finance

Communications Central Inc.
1150 Northmeadow Parkway, Suite 118
Roswell, Georgia 30076

ATTACHMENT "A"

PAYPHONE DIVISION

Current Position	PER ANI PER MONTH
Coin Revenue	134
Non-Coin Revenue	
Bundled & Unbundled	61
Dial around	6
Gross OSP Revenue	67
less: net billing	14
less: bad debt	3
Net Non-Coin Revenue	50
Other Income	1
Net Revenue	185
T- Bills	51
Commissions	35
Gross Profit	99
Operations	53
Corporate	18
EBITDA	28
Depreciation	23
Amortization	8
Income from Operations	-3
Interest Cost	10
Bottom Line	-13

ATTACHMENT "B"

COMMUNICATIONS CENTRAL INC.

COMPLETED 800 CALLS PER PHONE PER MONTH*

800 Access Code Calls:

AT&T	27.4
MCI	17.5
Sprint	3.7
LDDS	<u>0.9</u>

Total 800 Access Code Calls	49.5
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Subscriber 800 Calls	<u>79.7</u>
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Total 800 Calls	129.2
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*Based on a statistical sample of 21,400 payphones for the month of May, 1996.

ATTACHMENT 'C'

	Jul-93	Aug-93	Sep-93	Oct-93	Nov-93	Dec-93	Jan-94	Feb-94	Mar-94	Apr-94	May-94	Jun-94
Total OSP Revenue	1,624,741	2,031,327	1,791,442	1,739,702	1,590,914	1,361,883	1,279,137	1,268,704	1,784,525	1,630,226	1,614,915	1,772,461
# of Phones	10,493	12,560	12,740	12,800	12,979	13,091	13,252	13,382	15,313	15,572	17,172	17,526
OSP/Phone	154.84	161.73	140.62	135.91	122.58	104.03	96.52	94.81	116.54	104.69	94.04	101.13
	Jul-94	Aug-94	Sep-94	Oct-94	Nov-94	Dec-94	Jan-95	Feb-95	Mar-95	Apr-95	May-95	Jun-95
Total OSP Revenue	2,127,529	2,204,040	1,907,383	1,995,615	1,877,348	2,121,294	1,722,889	1,621,806	1,907,316	1,792,167	1,797,903	1,664,967
# of Phones	19,111	20,248	19,254	19,475	21,805	21,800	21,927	21,951	22,008	21,917	21,920	21,906
OSP/Phone	111.32	108.85	99.06	102.47	86.10	97.31	78.57	73.88	86.66	81.77	82.02	76.01
	Jul-95	Aug-95	Sep-95	Oct-95	Nov-95	Dec-95	Jan-96	Feb-96	Mar-96	Apr-96	May-96	Jun-96
Total OSP Revenue	1,816,268	1,800,845	1,615,911	1,596,788	1,491,632	1,498,990	1,314,186	1,256,671	1,411,424	1,434,654	1,399,587	
# of Phones	21,879	21,853	21,968	22,029	21,955	21,978	21,908	21,680	21,562	21,447	20,878	
OSP/Phone	83.01	82.41	73.56	72.49	67.94	68.20	59.99	57.96	65.46	66.89	67.04	

OSP Revenue per Phone

